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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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ORIGINAL

PROPOSED RULEMAKING TO MODIFY
THE RENEWABLE ENERGY STANDARD
RULES IN ACCORDANCE WITH ACC
DECISION NO. 74365.

DOCKET NO. RE-00000C-14-0112

COMMENTS OF THE CENTER FOR
RESOURCE SOLUTIONS ON STAFF'S
PROPOSED OPTIONS

The Center for Resource Solutions (CRS) appreciates the opportunity to provide information to the Arizona Corporation Commission (Commission) as it considers the issues brought forward in this proceeding. CRS is a nonprofit organization, and, as such, has limited resources and is not able to devote the resources necessary to become a party to this proceeding. The issues being considered in this proceeding are important to the future of renewable energy in Arizona, and CRS is appreciative of the opportunity to be able to share its perspectives through the public comment process.

The Utilities Division Staff (Staff) have provided a compliance filing per Decision No. 74365 that briefly describes seven options to modify the Renewable Energy Standard Tariff (REST). Below, CRS provides comments on these options as well as on the Recommended Opinion and Order

Recommended Opinion and Order

CRS could support the original Recommended Opinion and Order's (ROO) recommendation of a temporary waiver in the case that the Commission articulates in more detail proposed criteria governing such a waiver. As it is currently presented, the process that the Commission will use to determine whether a requested waiver is in the public interest and does not result in increased risk of double counting renewable energy generation or attributes (RECs) is not sufficiently clear for CRS to comment on potential double counting risks. Staff's proposed criteria, which was praised by the Administrative Law Judge in the ROO, is problematic as it included the proposal: "recognizing the reality regarding how much electric load is actually being met with renewable energy" and doing so by looking at the kWh generated from all DE facilities, *regardless* of REC ownership. Unless other criteria are proposed, or other methods of demonstrating this criterion are adopted, implementation of the Staff's Alternative Track and Monitor proposal could result in double counting and/or effectively taking, without compensation, the value of RECs retained by DG system owners. In general, measuring of supply and

generation does not create double counting/claims problems for renewable energy use claims (which require REC ownership). Issues arise when counting of renewable energy supply/generation is equated with renewable electricity use, such as serving "electric load" without RECs also being required to substantiate the use of renewable energy.

Staff's Proposed Options

I. Track and Monitor

CRS strongly urges the commission not to accept Track and Monitor. This option devalues the REST and private voluntary actions. Counting generation as if it were providing renewable energy to load (and thereby reducing the REST) clearly signals that the benefits of that renewable energy generation, including the value of the RECs, are being counted for REST purposes. This would significantly impact the value of the affected RECs for use or sale within and outside the state and reduce the attractiveness of investment from the private sector in Arizona renewables. Such a proposal changes the REST from a minimum level of renewable energy activity in the state to a cap, effectively eliminating the ability for individuals and the private sector to "make a difference" in the amount of renewable energy in the state.

The voluntary market exists as a way for people and organizations to make purchases that are above and beyond what is required by law/used for REST compliance purposes. If the REC is claimed by the REST compliance market then it has no value in the voluntary market thereby reducing the incentive for private investment in solar generation in Arizona.

II. Process Where Utility Would Purchase Least Cost RECs or kWh

CRS strongly supports this option, so long as it is made clear that renewable kWh are those kWh that still have the REC associated with it. It should also be clear that the least cost REC will still need to meet the REST eligibility requirements, including, but not limited to, resource type, location and size.

III. Creation of Maximum Conventional Energy Requirement

CRS does not support this option due to the complexity, administrative burden, and the ease of gaming. It would be very difficult to achieve the goals of the REST with this option. If this option is selected, electricity generation from renewable energy facilities (kWhs) that does not have RECs associated with it should not be considered "non-conventional" as the renewable attributes are contained within the REC and belong to the REC owner. Such kWh are called "null power" and best practices in electricity generation tracking are that such electricity be considered to have attributes equal to the profile of average system energy (e.g, NERC region or state).

IV. Mandatory Upfront Incentives ("UFI")

CRS supports the option of Mandatory Upfront Incentives, if the provision that the UFI mandate and/or DG/DE mandate can be waived if it is determined that there is sufficient DG being installed is deleted. This provision as it stands raises the same risks as the prior Track and Monitor proposal.

V. REC Transfer Associated with Net Metering

While using net metering tariffs as a procurement mechanism for RECs is a proposal to consider, net metering customers should be given a choice of whether or not to relinquish their RECs. The RECs should not be taken in exchange for the service that the utility is already required to provide without compensation and agreement by the REC owner. Net metering customers should be paid full value for their RECs if they voluntarily decide to transfer them to the utility through the net metering tariff. A policy wherein all net metering customers are required to transfer their RECs to utilities would reduce private investment into DG/DE in Arizona, as those RECs would not be usable by the installation owner, the homeowner/system host, or any third party.

VI. Recovery of DG/DE Costs Through the Standard Rate Case Process

A waiver of the DG/DE requirement based on sufficient DG being installed in the Utilities service area has the same risks as track and monitor and any other proposal that equates generation with REST compliance.

VII. Track and Record

CRS strongly urges the commission to reject Track and Record. The option would likely constitute a claim on all Arizona privately-owned RECs, even though it purports not to. The option inaccurately states that the null kWh is being reported for informational purposes only, however the in-state generation is the only type of information specifically referenced for the Commission to rely on. This information is clearly being used to determine compliance.

CRS appreciates the Staff's desire to preserve REC values for Arizona citizens and organizations who have invested in DE. However, any use of renewable energy generation (as in the Track and Monitor proposal), its attributes and/or associated RECs toward the REST constitutes a claim, eroding the value of an associated voluntary market REC. Such is the case even if the associated RECs contractually remain with the installer or generation owner. The statement "Such REC may not be considered used or extinguished by any entity without approval and proper documentation from the entity creating the REC." will not alleviate concerns about REC value for buyers of RECs who wish to use them outside of the Arizona REST, including other state RPS markets and in the voluntary market for RECs.

The Voluntary Market in Arizona

The Arizona voluntary market exists and is vibrant. As noted in Ms. Martin's testimony, in 2011, Green-e Energy verification data demonstrates that there are thousands of customers voluntarily purchasing renewable energy in Arizona, and Arizona renewable generators generated 29,997 MWh that were sold into the voluntary REC market.¹ There may also be other voluntary purchasers in Arizona and renewable energy generation sold into the voluntary market from in-state generators that are not Green-e Energy certified.

Some examples of sellers in the voluntary market include Arizona Public Service Company, whose Green Choice Program is Green-e Energy certified. Also Salt River

¹ Center for Resource Solutions, data aggregated from Green-e Energy verification of 2011 certified sales.

Project's EarthWise program is certified by Green-e Energy. According to the EPA's Green Power Partnership list, voluntary renewable energy market purchasers in Arizona include: Apollo Group, Inc., University of Phoenix, Arid Zone Trees, Arizona Lithographers, ConserVentures, Evolution Beauty Technologies, Inc., Forever Resorts/Big Bend Resorts, Chisos Mountain Lodge, Forever Resorts / Grand Canyon North Rim, LLC, International Student Exchange Cards, Inc., and Prime Time Thermographics.

The primary market in the United States for voluntary RECs is for Green-e Energy Certified RECs. According to the National Renewable Energy Laboratory and verification data obtained through annual Green-e Energy reporting, Green-e Energy certifies and verifies roughly two-thirds of the U.S. voluntary retail renewable energy sales overall and more than ninety percent of U.S. voluntary retail renewable energy certificate (REC) sales.²

Undisputed ownership of and title to renewable energy attributes, including REC ownership, the claim to own or use renewable energy, and the ability to sell that claim, including to parties outside of Arizona, is critical to Arizona businesses and individuals who invest in on-site renewable energy. The adoption of policy by the Commission that brings into question those rights will significantly reduce the value of renewable energy for DE owners in the state and will hinder future economic growth in this sector in Arizona.

Arizona citizens and businesses have an interest in having clear title to the property rights associated with renewable energy attributes, RECs and claims associated with their onsite or owned renewable energy generation. As an example of this, both the U.S. Government and Wal-Mart have expressed such directly to the Commission as parties in this proceeding. In addition, the U.S. Environmental Protection Agency wrote to the Commission and expressed similar concerns. Proposals before the Commission, including Track and Monitor and Track and Record, appear to be intended to meet the REST requirements by "counting" or "monitoring" renewable energy generation by facilities owned by third parties (not utility owned) and using that "counting" or "monitoring" to determine a utility's REST compliance. CRS's Green-e Energy program rules on which Ms. Martin offered testimony are just one example of how adoption of such policies will be viewed by market and regulatory entities as a claim on renewable energy attributes, including RECs.

For the U.S. national voluntary market and several state renewable energy regulatory markets that Arizona solar generators are eligible to participate in (including California, Oregon, Colorado, North Carolina and Missouri) such counting threatens these property rights and will likely preclude Arizona generation owners from being able to access these markets. In addition, for companies like Wal-Mart and others in Arizona that own on-site generation, adoption of such policies by the Commission will erode the benefits these companies expected to receive from their on-site generation and could preclude them from using that generation to qualify for recognition programs, like the

² National Renewable Energy Laboratory, *Market Brief: Status of the Voluntary Renewable Energy Certificate Market (2011 Data)* available at <http://www.nrel.gov/docs/fy12osti/56128.pdf> at 5; and Center for Resource Solutions, *2011 Green-e Verification Report* <http://www.green-e.org/publications.shtml> at 4-6, (accessed June 5, 2013).

EPA Green Power Partnership, or from reporting that renewable generation for other recognition or sustainability reporting programs.

Conclusion

A decision by the Commission that effectively counts renewable energy generation to meet the REST will have negative consequences for Arizona generation owners.

This will be the case even if the adopted language uses alternative terminology in an attempt to both preserve private rights to renewable energy generation and count that same generation towards a utility's obligations under the REST. Any policy that creates confusion as to the ownership rights of Arizona generators over their RECs and/or renewable energy attributes or claim to owning or using renewable energy generation will only result in a loss of value for DE owners in the state and reduce economic opportunities for Arizona citizens and businesses who wish to claim or sell their renewable energy generation ownership rights.

The Commission should adopt a decision that uses clear language to explain the intent of the policy


Such language should include whether or not any action by the utilities or Commission, including but not limited to tracking or monitoring or other types of reporting with regard to Arizona solar generation, is being used as a basis to determine REST compliance. In the interest of clarity, maintaining consistency with and access to the overall renewable energy markets in which Arizona generators can participate, and maintaining strong property rights to renewable energy attributes and claims for Arizona renewable energy owners, CRS urges the Commission to maintain its current policy to require the utilities to acquire RECs to demonstrate REST compliance.

CRS joins Wal-Mart, the U.S. Department of Defense, Western Resource Advocates and Vote Solar and SEIA as well as non-parties such as the US Environmental Protection Agency have also requested that the Commission consider the impacts of double counting on the voluntary market in Arizona.

Thank you,



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